

**MINUTES OF THE  
LAKE COUNTY PLANNING COMMISSION  
May 30, 2006**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Brotzman called the meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Messrs. Adams, Brotzman, Fitzmaurice, Klco (alt. for Troy), Simon, Smith (alt. for Sines), and Mmes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Truesdell.

**MINUTES**

Mr. Brotzman said on page 18, the Subdivision Regulations Revisions Review Committee did not have an appointed Chairperson. He contacted Mr. Siegel who agreed to be Chairperson for this Committee.

Ms. Hausch moved and Mr. Simon seconded the motion to approve the minutes for the April, 2006 meeting.

Five voted "Aye."  
Three abstained.

**FINANCIAL REPORT**

Mr. Simon moved and Mr. Adams seconded the motion to approve the Financial Report for April, 2006.

All voted "Aye."

**PUBLIC COMMENT**

There was no public comment.

**LEGAL REPORT**

Eric Condon, Assistant Prosecutor, said he was asked by Mr. Simon about the limits of the planning commission. He cited Emerald Lakes vs. South Russell referred to by Ohio Jurisprudence Encyclopedia of Law as the leading case which took place in 1991 in our district. In this case, South Russell required, in the preliminary plat stage, to prove the existence of adequate ground water for their proposed development. It cites Ohio Revised Code Section 711.09. He quoted from the case. *"In other words, a planning commission is to be concerned with the mechanical or engineering aspects of subdivisions and plats rather than their usage. The planning commission function is to be more than a rubber stamp. Reviewing plats requires a high degree of discretion. That discretion extended beyond determination as to whether that*

*plat was technically in compliance with code specifications. Zoning goes to use, where as a planning commission deals with the mechanical aspects. The planning commission has power to supplement Revised Code Section 711.09 if the supplement concerns future congestion and public health."*

Mr. Condon said we are not necessarily bound by that statute but it has to do with future congestion and public health. Stay away from use of the property. Having conferred with Pat Nocero, it was their opinion that this was all fair game for the planning commission.

Ms. Pesec asked if the planning commission is not allowed to ask what they are using it for but are they allowed to ask about the technical aspects of the subdivision.

Mr. Condon said if you get into what you would allow near a wetlands as opposed to what you would not allow, that is more of a zoning issue. Even though it is an old case, it has not been overturned and it is in our district.

#### DIRECTOR'S REPORT

Mr. Webster said that he had received a signed contract from North Perry Village to do their comprehensive plan. He felt confident that staff should be able to work within the time limits set in the contract. It needs to be signed by the Chairperson and the Director.

Mr. Adams moved and Mr. Simon seconded the motion to enter into a contract with North Perry Village for planning services and particularly to develop an updated comprehensive plan.

All voted "Aye."

#### ANNOUNCEMENTS

Mr. Webster announced Northeast Ohio Areawide Coordinating Agency is holding a transportation summit concerning transportation issues in the five county area on Friday, June 9, 2006 at the Wolstein Center of Cleveland State University.

The Lake, Geauga, and Ashtabula Zoning Seminar will be on June 16<sup>th</sup> at Auburn Career Center. Discussions include timelines for zoning amendments, updates on new septic system rules, small community comprehensive planning, subdivision review processes, conservation development, riparian setbacks, oil and gas drilling and other topics. This conference focuses on townships and is meant to supplement the American Planning Association's Fall conference which focuses on municipalities.

Mr. Webster said he received a letter from Concord Township Trustees praising staff for the Auburn-Crile Business Corridor Study. They requested staff's continued assistance in recommending to the Concord Zoning Commission proposed zoning change regulations to implement the results of the study.

Ms. Hausch moved and Mr. Simon seconded the motion to support staff's efforts to advise the Concord Township Zoning Commission.

Mr. Adams asked if staff had time to help Concord with their zoning and was advised that staff had done a similar study with the Madison Township Route 20 Corridor Study and is presently advising the Madison Township Zoning Commission how to restructure their zoning regulations. He was concerned that, with the loss of two staff members, the Commission was taking on additional work.

Mr. Webster said we have done this before with Madison Township, Painesville, Concord, and Leroy Townships. We had also done individual texts for Perry Township. He said this work will not interfere with previously committed contracts.

Mr. Simon asked if staff made any recommendations on the widening of Route 20 corridor through Painesville Township. He was told that staff made no recommendations.

Mr. Brotzman asked for a vote.

All voted "Aye."

#### SUBDIVISION REVIEW

Concord Township – Crestview Estates, Preliminary Plans and Improvement Drawings, 3 Lots, 1.786 Acres

Mr. Radachy stated that the developer was Slowey Insurance with Polaris Engineering. Zoned R-1, they are bringing in sanitary sewer. It is located on Pinecrest Road, east of Morely, west of Viewmount and has 3 sublots.

#### **Proposed Plan Stipulations:**

1. Ownership of all land that is in the proposed subdivision must be in the name of the applicant. *LCPC*
2. There is an empty local service drainage easement along the rear line of the sublots. The applicant shall provide the reason for this easement. Maintenance responsibility shall be shown on the plat. *Article III Section 6(D)(1)(o)*
3. The land owned by Slowey Insurance that is located in the Pinecrest Road right-of-way will be required to be dedicated to the Commissioners. *Article IV Section 2(C)(1)*
4. Commissioners' language shall be on the plat. *Article III Section 6(D)(1)(m)*
5. The existing ditch shall be placed into an easement and maintenance responsibility shall be stated on the plat. *Article III Section 6(D)(1)(j)*

#### **Proposed Design Stipulations:**

None

### **Proposed Technical Stipulations:**

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*
4. Prior to issuance of a final Certificate of Occupancy the Lake County General Health District shall have granted final approval of a conforming water and sanitary sewerage disposal system. A final Certificate of Occupancy will not be issued by the Lake County Building Department until or unless the building official inspects the building or structure and finds no violations of the provisions of the 2004 Residential Code of Ohio for One, Two and Three-Family Dwellings, or other laws that are enforced by the Lake County Building Department. **No building or structure shall be used** or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. *L.C. Building Dept.*
5. Final approval could be forthcoming when detailed construction drawings are submitted to the Lake County Department of Utilities for review. *L.C. Utilities Dept.*
6. Complete an erosion and sediment control plan with the improvement plan drawings. *LCSWCD*

Mr. Radachy pointed out a piece of property from the adjacent Mountaintop Estates that must be properly subdivided and added to Crestview Estates. Staff recommended approval.

Mr. Smith asked if this absorbs the one parcel that was discussed with the Mountaintop Estates proposal and was told it did.

Mr. Simon asked if the construction drive was part of this.

Mr. Radachy said the construction drive was not part of this and, currently, SPS Mountaintop LLC owns this piece of property. If they sell this piece of property they will have to obtain an easement to provide a construction drive through that area. They were proposing leaving a 0.24 acre parcel that is substandard to zoning at only 50-feet wide. They were to add it to the larger part in front or add it to the subplot to the north. They decided to sell it to Slowey Insurance and Slowey will subdivide it into a larger piece that they have, 1.7 acres into 3 lots. They are still required to provide a construction drive. SPS Mountaintop LLC sent a letter authorizing Slowey Insurance to act as an agent for them.

Mr. Simon moved and Mr. Smith seconded the motion to approve Crestview Estates Subdivision with Preliminary Plans and Improvement Drawings and 3 lots, in Concord Township.

All voted "Aye."

Concord Township - Mountaintop Estates, Final Plat, 14 Lots, 10.51 Acres

Mr. Radachy said the preliminary plan for Mountaintop Estates was approved in March, 2006. To the north is Mountainside Farms, Phase 3A and 3B with a little strip going back to Pinecrest. A house on the site still needs to be removed. They are proposing two detention ponds on the east property line. There is a temporary tee at the end of Laydon Lane that has to be removed because it is in the right-of-way. Staff is recommending approval of the Final Plat and Improvement Plans.

**Proposed Plat Stipulations:**

1. Remove the zoning information from the plat. It is not required by Article III Section 6 to be on the plat.
2. The existing house on proposed subplot 8 does not meet the minimum rear yard clearance requirement of 40 feet, as set forth in Section 15.07 of the Concord Township Zoning Resolution, and should be removed as noted prior to filing of the final plat. *Concord Twp. Article IV Section 3(A)(3)*
3. The proposed .2404 acre parcel fronting on Pinecrest does not meet the minimum lot area requirement of 22,000 sq. ft., as set forth in Section 15.04 of the Zoning Resolution and should be combined with the adjoining lot as noted prior to the plat being filed. *Concord Twp. Article IV Section 3(A)(3)*
4. In the table on the cover sheet, give a total of the area in sublots plus the area in ROW. *Article III Section 6(D)(1)(r)*
5. Plat shall make reference to a minimum of two Ohio State Plane Coordinates. *L. C. Engineer*

6. Specify on the plat that a proposed house on subplot 4 must face Butler Hill Drive, in order to comply with the applicable setback requirements set forth in the Zoning Resolution. *Concord Twp.*

**Proposed Improvement Plans Stipulations:**

1. A Storm Water Pollution Prevention Plan must be prepared for erosion and sediment control. Effective March 1, 2000, an approved Erosion and Sediment Control (ESC) Plan shall be submitted after the approval of the Preliminary Plans and obtained prior to the approval of the Improvement Drawings by the Lake County Planning Commission (Section 5 of the Lake County Erosion and Sediment Control Rules, adopted 12/21/99). ESC Plan approvals shall be obtained through the Lake County Soil and Water Conservation District. *Art. IV, Sec. 3, E - Art. IV, Sec. 3, F - Art. V, Sec. 4, A - Art. V, Sec. 4, B - Art V, Sec. 4, C*
2. Until plats and plans for the subdivision are approved, properly endorsed and recorded, no improvements such as sidewalks, water supply, storm sewers, sanitary sewerage facilities, gas service, electric service or lighting, grading, paving or surfacing of streets shall hereafter be made by the owner or owners or his or their agent, or by any public service corporation at the request of such owner or owners or his or their agent. *Art. I, Sec 4, B*
3. Any subdivision with a preliminary plan filed after 1/27/04 will be required to provide a three year maintenance bond or surety when the subdivision goes into the maintenance phase. *Article V Section 8(D)*
4. The developer shall provide a construction access to Pinecrest Road during the construction of the road and improvements. *LCPC*
5. Remove the temporary turn around tee at the current end of Laydon Lane. *LCPC*
6. ESC Plan revisions shall be developed and submitted to the District for review and final approval. *LCSWCD*
7. Ohio EPA NPDES permit for general storm water management and erosion & sediment control shall be obtained prior to the start of construction and copied to the District. *LCSWCD*
8. Wetland delineation shall be copied to District. *LCSWCD*
9. Final approval could be forthcoming when detailed construction plans are submitted to the Lake County Department of Utilities for review. *L.C. Utilities*
10. Fire flows must meet the ISO minimum requirements for size, type and spacing for structures built. *Concord Twp. Fire Dept.*

11. Spacing of fire hydrants will be determined by Concord Township Fire Department and based on a case-by-case review. *Concord Twp. Fire Dept.*
12. Hydrant flows must be 750 gallons per minute minimum. *Concord Twp. Fire Dept.*
13. Hydrant steamer outlet shall be 5" Stortz fitting on all hydrant installations, and future installations. *Concord Twp. Fire Dept.*
14. Hydrants are not permitted at the end of the cul-de-sac. The hydrant shall be moved to the beginning of the cul-de-sac. *Concord Twp. Fire Dept. Article V Section 11*
15. Submit wetland approval from USACE. *L. C. Engineer*
16. Stormwater pond shall be placed adjacent to roadway or provide better access for maintenance proposed. *LC Engineer*
17. Every subplot shall have access to storm sewer. *LC Engineer*
18. The improvement plans are subject to detail review. *LC Engineer*
19. Prior to issuance of a final Certificate of Occupancy, the Lake County General Health District shall have granted final approval of a conforming water and sanitary sewerage disposal system. A final Certificate of Occupancy will not be used by the Lake County Building Department until or unless the building official inspects the building or structure and finds no violations of the provisions of the 2004 Residential Code of Ohio for One, Two and Three-Family Dwellings, or other laws that are enforced by the Lake County Building Department. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a Certificate of Occupancy. *Building Department*

**Comments:**

1. Permanent cul-de-sac should conform to Concord Resolution 2004-5. *Concord Twp. Service Dept.*
2. Streets and fire hydrants must be installed and operational prior to start of construction of any structures. *Concord Twp. Fire Dept.*
3. Building numbers must be provided and installed prior to occupancy of any structure. *Concord Twp. Fire Dept.*
4. Street name signs and "No Parking on Hydrant Side of Street" signs shall be provided and installed prior to the start of construction of any structure. *Concord Twp. Fire Dept.*
5. Street name signs and mailbox house numbers must be double sided. *Concord Twp. Fire Dept.*

6. Concord Township Fire Department will NOT approve “stub streets” of any length. Temporary cul-de-sacs must be provided with a minimum pavement diameter of 120 feet. *Concord Twp. Fire Dept.*
7. All contractors are to be instructed NOT to park on the hydrant side of the street during any construction. *Concord Twp. Fire Dept.*

Mr. Brotzman asked if the parties concerned worked out the removal and relocation of the ponds.

Mr. Radachy said, yes, they may remove all detention ponds and consider Mountainside as one pond to cover both subdivisions. That will come after further detailed study of the site.

George Hadden of the County Engineer’s office, said there is a large pond located in the northwest corner of Mountainside Farms. They are thinking of making that pond the central detention basin for the area. Currently, the two ponds are in the back yards.

In response to Ms. Pesec’s question concerning detention ponds, Mr. Radachy said stipulations 16 and 18 on the Improvement Plans responds to the relocation of the ponds. Mr. Adams was told that fire hydrants would be better stationed where the road hits the bulb of the cul-de-sac and should be located within 500 feet of each other.

It was noted that the wetland is located on the designated private preservation easement which will go to the homeowners association. The County Prosecutor reviews the deed restriction to make sure the homeowners association, township, or county responsibilities are designated. Mountaintop Estates homeowners were invited to join the Mountainside Farms Homeowners Association.

Mr. Scharver said that if anyone tried to fill in the wetlands, they would have to first seek a permit to be authorized to do that. Without authorization, they would be liable to the Environmental Protection Agency or Corps of Engineers just like any other developer. This is just an open space held by the homeowners association that just happens to have a wetland on it. Whether it is in an easement or not, the Corps ultimately has jurisdiction over it.

Mr. Radachy said the easement will be on the plat and gives fair notice to anyone in the homeowners association to seek advice and options.

Mr. Adams moved and Ms. Hausch seconded the motion to approve the Final Plat of Mountaintop Estates Subdivision with 14 Lots in Concord Township.

All voted “Aye.”

## LAND USE AND ZONING REVIEW

Madison Township – Proposed District Amendment from M-1, Industrial, to R-1, Suburban Residential District



Mr. Radachy said the applicant is the Margaret Nash estate and includes 25 acres. There is a Wetlands Reserve Program Easement which encompasses most of the property. The homesite and the land between the railroad tracks are not included in the easement. The home has not been lived in for over two years so it is no longer a legal non-conforming use.

Mr. Radachy stated the zoning district change for the property to the south of the tracks would turn the current legal non-conforming use to conforming. The land by the railroad tracks was zoned industrial based on 1950's zoning standards. However, surrounding land uses and the comprehensive plan do not support this property being zoned industrial. The owners would get one additional lot off the property by rezoning it and the easement would prevent additional homes on the property.

The original 1996 Comprehensive Plan suggested that the land between the tracks be industrial. There was no evidence to go against the comprehensive plan. This land was only good as agricultural land because there is no water or sewer to develop it as industrial.

Staff recommended that the land south of the tracks be rezoned to R-1 and the land between the tracks should remain industrial as per the 1996 Comprehensive Plan. The adjacent land is R-1, Suburban Residential. There is no difference between R-1 and A-1, Agriculture.

Mr. Adams moved and Mr. Fitzmaurice seconded the motion to accept the recommendation of the Land Use and Zoning Committee to recommend the proposed district change and to rezone the land south of the tracks from M-1, Industrial, to R-1, Suburban Residential District.

All voted "Aye."

## REPORTS OF SPECIAL COMMITTEES

### Lake County Coastal Plan Committee

Mr. Webster said that the Committee has not received a reply on their request for federal funds. Lakeland Community College students will do a video CD for promotional television spots for the lakeshore and they are looking for script writers. The Committee is also hosting a luncheon for corporate sponsors to raise the 25% match of the \$80,000,000 that was requested. They are looking for help from the Gund Foundation, Cleveland Foundation, and various communities and civic leaders. NOACA could be a possible donor depending on the transportation functions. They have been very supportive in the past. A regional port authority is preferred as opposed to a county port authority.

### Lake County Subdivision Revisions Review Committee

Mr. Webster said that the Subdivision Revisions Review Committee met on May 16. Discussion centered on the County Engineer's details for bridges. The other concern was on the affirmed wetlands. To have "affirmed" wetlands, there needs to be Corps of Engineer approval which could take three months to several years. Wetlands can be defined by determining setbacks and delineating stormwater situations.

Mr. Radachy said that Bill Vondra and Alan Exley of the County Engineer's office suggested that the County Engineer receive information from the developer at the beginning of

the process to be better advised of what needs to be done on stream crossings over three feet. The consensus of the committee was to adopt the following addition to the Lake County Subdivision Regulations Article III Section 3(D)(1) Item X.

Where proposed public right of way crosses any proposed drainage course, existing or planned for the property development, the location, water course name, if any, the size(s) of any up or down stream bridges or culverts within 2500 feet of the proposed crossing and estimated drainage area must be provided. Given this information, provide a written description of the planned crossing method including an estimated span or span range, structure “type” culvert or bridge and estimated height from the flow line to the anticipated roadway surface. Structures that span 3 feet and greater will be required to follow the Lake County Bridge Design Criteria standards.

Mr. Webster said that the Committee discussed the delineation of wetlands and the consensus was to adopt the following addition to the Lake County Subdivision Regulations Article III Section 3(D)(1) Item Y.

Delineation of wetlands and streams in accordance with the 1987 United States Army Corps of Engineers Guide for Wetland Delineation.

Mr. Simon said he contacted Mr. Condon asking why we were requesting information when they (the engineer) were legally responsible.

Mr. Radachy responded that this was the first step of getting information to the Engineer.

Mr. Condon said it is a timing issue and that the Engineer can require it but apparently, he can only require it at the end.

Mr. Webster explained that developers were often reluctant to submit their plans to the County Engineer for review prior to the final stage. Now the County Engineer will attend the pre-application meeting.

Mr. Simon said we are requiring additional information which gives the developer plenty of opportunity to discuss plans. Until the actual roads are laid out, it is a guess as to the location of any potential culverts or bridges. That was the concern on this issue. That is why he is questioning what authority we have to require something we do not have jurisdiction on.

Mr. Condon said, he did not know that we did not have jurisdiction. He agreed that we did not have jurisdiction on the construction of bridges. Geauga County Planning Commission, and South Russell in the court case, did not have jurisdiction over wells or other water supplies. That is the case and we analogize to that case. Do they have jurisdiction? Yes. And it appears we have concurrent jurisdiction. They do not have exclusive jurisdiction. It matches well with the Geauga case in that it was a preliminary.

Mr. Simon responded by saying we have a difference of opinion because there are no engineers on the Planning Commission. There are some at the Engineer’s office.

Mr. Condon said there were probably no health experts on the Geauga County Planning

Commission.

Mr. Simon said this needs to be reviewed as to what additional expense will be required because we will be collecting data that we normally do not collect.

Ms. Pesec said Mr. Vondra was concerned about bridge detail and the cost at a preliminary stage. Mr. Vondra felt that this information could be gotten without a lot of time and expense. She thought it put everyone on the same page early as we are the collection agency for lots of different agencies. By putting this upfront, everyone is better informed at the time of approving a preliminary plan.

Mr. Simon said the preliminary and final road layout can change substantially requiring more money to be spent on engineering. His concern was that at the pre-construction meeting, the County Engineer needs to give direction as to where the potential issues lie, so when the developer hires an engineer, the money is spent in the right place, not on a hypothetical case.

Mr. Condon said that money is better spent on the front end than on the back end. The Engineer will say that you should have seen him months ago. The waste of money is on each end. The question for the Planning Commission is how much the developer will have to spend to prove what they want to do in the preliminary. And, as he discussed with Mr. Simon, South Russell needed to know if the residents would have water to drink. The court says that is important and belongs to the mechanics of development. But they also said they will also give a lot of discretion to the Planning Commission. So, be careful what you do with your discretion.

Mr. Simon agreed that the money will be spent sooner or later but he questioned if this was the proper place for it to be designated.

Mr. Webster said that Bill Martin of the Homebuilders Association agreed that this definition was all right by him. This was in the preliminary review process, not pre-construction. They are not required to have this information for a pre-application meeting. Also, usually the road layouts proposed are the ones that are in the final plat. When we get into stream crossings, it may not be where the County Engineer wants it or where the Corps of Engineers want it. Any changes needed have to be done through the County Engineer per his requirements. One of the reasons we designed the pre-application meeting was to have the County Engineer, Utilities, Soil and Water, township representative for zoning, and ourselves and the Health Department, if there was septic or well water involved, all together so the developer can know the requirements.

Mr. Condon and Mr. Webster said the pre-application conference is a general meeting to make the developer aware of situations such as, drainage and topography.

The question was what would be the purpose of requiring the sizes of any up or down stream bridges or culverts within 2500 feet if they have that on record?

Mr. Webster said so they could factor that into their calculations. Oftentimes, developers fail to even investigate information that is available.

Mr. Condon said it is easier to check someone else's information than to start from scratch.

Mr. Brotzman said that this is asking for a written description, not technical data, and concludes that they must follow bridge and design standards. When they get into the pre-application meeting, the emphasize is to think about this. The engineer will make his points further into the process. He asked if the term "written description" was meant so that it would not be more controversial than it is?

Mr. Radachy said yes. Mr. Exley understood the conversation on this issue and reviews the subdivisions.

Mr. Webster said they will have to provide the road design, which is already in our regulations.

Mr. Condon said the point is that as long as the Planning Commission does not abuse discretion, we are within our rights.

Referring to the wetlands, Mr. Brotzman asked Mr. Scharver, with this language, could a developer choose one of three or four different engineers, choose the spring versus the winter, depending on whom he chose and when they did the work. Does this address the question of who you go to and when you do the delineation?

Mr. Scharver said it is possible to have different results depending on the vegetation cover, the consultant, and when it is done. A reputable consulting company would do it in a better time period. If that was not possible, a consultant could still do a reputable delineation, although it would be more difficult. The District's use of the word "affirmation" was used because the County Commissioners' regulations are one of the ways they show compliance. An agency verifies that these are the boundaries of the wetlands and both parties agree. Permitting can go on from that. As a reviewing agency, they would want to see that information so they could provide an adequate review back to the landowner, developer, and the County. They would know issues or road placement, bridge crossings, and other elements that would change the way the development is laid out. There were three examples of bridges where the Corps granted a certain type of permit based on what the applicant requested. It is not the Corps dictating to the applicant what they can do; it is what the applicant chooses to do. Mitigation is a deterrent. The problem is that if that issue is not raised in the preliminary stage, and the Corps permit requires mitigation. The applicant may propose a bridge which is now a whole other issue for county agencies to deal with.

Mr. Simon says that most developers would hire a reputable consultant in the first place. The Corps reviews submissions on a priority basis and those reviewed first are the ones which have a higher priority. An affirmed wetlands is the least priority. A preliminary is considered before affirmed wetland delineation. If you have preliminary approval, wetland delineation moves through the process quicker. If you do not have it, it is the least priority. It is important to watch the terminology before we add a year and a half to the process. A professionally delineated wetland is probably not going to change much between that and what gets approved.

Mr. Scharver said that is fairly accurate. The Soil and Water Conservation District is content with whether it is professionally delineated or just the delineation shown. The word affirmation is not necessary. Although the manual was made in 1985, it will not need to be updated. You could add, "and subsequent additions."

Mr. Brotzman was told that Mr. Exley's definition is the preferred one. As for the wetlands, there is no professional certification for wetlands.

Mr. Condon said "in accordance" is a term that can be relied on.

Mr. Brotzman said they agreed with Soil and Water District's definition with the addition of "and subsequent additions."

Mr. Webster said that the Board needs to determine which of the two items is preferred.

Ms. Pesec said the proposal would be to accept the bridge engineer's description instead of existing letter "X" on the current proposed subdivision regulations. It was added after the public hearing. It came to the board but was not voted upon.

There is another public hearing at the Commissioners' level.

Mr. Smith moved to modify Item X in the Subdivision Regulations under Article III Section 3(D)(1) to accept the bridge engineer's regulations recommended by the Subdivision Regulation Committee. Ms. Hausch seconded it.

All voted "Aye."

Ms. Hausch moved to accept the addition of Item Y under Article III Section 3(D)(1) to the Subdivision Regulations, "affirmed delineation of wetlands and streams in accordance with 1987 United States Army Corps of Engineers Guide for Wetland Delineation." Ms. Pesec seconded the motion.

Mr. Webster said now that these have been amended, the new Subdivision Regulations are sent to the County Commissioners for a public hearing and adoption. The Planning Commission officially adopts them after that.

Ms. Pesec asked if there were any other issues we may not have discussed.

Mr. Radachy said we advertised Article II for a public hearing. And we read into the record at the public hearing a definition of "original tract". Original tract should also be amended to be changed. He read the definition of original tract as discussed in the March, 2006 public hearing. *"Each Lake County parcel issued a permanent parcel number by the Auditor in the unincorporated areas may be split into four plus a remainder, so long as the splits and remainder meet all township zoning requirements and all county regulations that apply."*

The previous motion made by Ms. Hausch and seconded by Ms. Pesec was withdrawn. Ms. Pesec moved to include the definition for original tract in the Subdivision Regulations under Article II Definitions. The definition of “original tract” is, “*Each Lake County parcel issued a permanent parcel number by the Auditor in the unincorporated areas may be split into four parcels plus a remainder, so long as the splits and remainder meet all township zoning requirements and all county regulations that apply.*”

Mr. Simon seconded the motion.

All voted “Aye.”

Mr. Simon moved to submit the newly proposed Lake County Subdivision Regulations to the Commissioners for public hearing. Ms. Hausch seconded the motion.

All voted “Aye.”

#### CORRESPONDENCE

##### Auburn-Crile Business Corridor Study

Mr. Webster said that Concord Township wrote a letter expressing their pleasure with the Auburn-Crile Business Corridor Study.

##### Madison Township Board of Trustees – Comprehensive Plan Update

Mr. Webster said we received approval from Madison Township Trustees to do the Comprehensive Plan two years ago but the Route 20 Corridor Study preceded it. They have decided to do the entire comprehensive plan including Route 20.

##### Ohio Department of Transportation – State Route 86

Mr. Webster said that the Ohio Department of Transportation sent a letter saying that they have journalized a centerline for the proposed relocation of a portion of State Route 86.

#### OLD BUSINESS

There was no old business.

#### NEW BUSINESS

There was no new business.

#### PUBLIC COMMENT

There was no public comment.

#### ADJOURNMENT

Mr. Fitzmaurice moved and Ms. Hausch seconded the motion to adjourn the meeting.

All voted “Aye.”

The meeting adjourned at 9:21 p.m.